

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE HONORABLE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application No. : 10/081,265 Confirmation No. 9838
Applicant : Mark Itwaru
Filed : February 22, 2002
Title : SECURE ELECTRONIC COMMERCE
TC/Art Unit : 3621
Examiner : Charlie C. Agwumezie
Attorney Docket No. : SAB-028
Customer No. : 36822

Mail Stop Appeal Brief - Patents

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450
U.S.A.

Dear Sir:

APPELLANT'S REPLY BRIEF UNDER 37 C.F.R. 41.41

This is in response to the Examiner's Answer, mailed August 8, 2007.

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Status of Claims

Claims 1, 4-26, and 28-36 stand rejected. Claims 2, 3 and 27 are cancelled. Claims 1, 4-26 and 28-36 are being appealed.

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Grounds of rejection to be reviewed on appeal

Whether claim 36 satisfies the written description requirement of 35 USC 112.

Whether claims 26 and 36 are indefinite and therefore fail to satisfy 35 USC 112.

Whether claims 1, 4-16, 18-21, 34 and 35 are unpatentable under 35 USC 102(b) as anticipated by US5,778,173 to Apte.

Whether claims 22 to 32 are unpatentable under 35 USC 102(b) as anticipated by EP0926,611 to Furman.

Whether claim 17 is unpatentable under 35 USC 103(a) as obvious over Apte in view of US5,729,594 to Klingman.

Whether claim 26 is unpatentable under 35 USC 103(a) as obvious over Apte in view of US2003/0195843 to Matsuda.

Whether claim 29 is unpatentable under 35 USC 103(a) as obvious over Furman in view of Matsuda.

Whether claim 33 is unpatentable under 35 USC 103(a) as obvious over Furman in view of US6,675,008 to Paik.

The Examiner rejected claim 27 under 35 USC 120(e) as anticipated by US6,704,873 to Underwood. However, as this claim was canceled in the response of February 13, 2006, this objection is moot.

Argument

Claim 12

In the first paragraph at page 20 of the Examiner's Answer, the Examiner presents new arguments that US\$5,778,173 to Apte anticipates claim 12. The Examiner states "prior to connecting to the transaction server, a download of setup and redirection code is download to the client, which automatically configures the client for seamless redirection to the transaction server...Of what purpose is the download of redirection code if the computer is not capable of connecting to the transaction server and the resources are not appropriate for such connection?"

In reply, Applicant notes that Apte in fact states "the user is provided with software... which automatically performs the transition" (col. 3, lines 15 to 17). Apte does not state the software automatically configures the client. Indeed, the language of Apte is perfectly consistent with loading software to the computer which software is configured based on assumed characteristics of the computer. There is nothing in this language to suggest the computer is sent "a set-up message addressed to said client over said public Internet with a set of computer executable instructions for determining resources of said client for connecting to said private network", as is required by claim 12.

Claim 21

The Examiner purports to reject claim 21 for the reasons given in respect of claim 14. In this regard, the Examiner newly argues (in the paragraph bridging pages 20 and 21 of his Answer) that "the only way the client can connect to the transaction server is that the resources are capable of making the connection. In the world of modems connected to the computer, an indication that the modem is working and ready to make a connection is an inherent feature that Appellant needs to recognize."

It is respectfully submitted that this argument is irrelevant to claim 21 as there is nothing in this argument to suggest the claim 21 feature of “sending a message addressed to said client over said public Internet with a set of computer executable instructions for determining resources of said client for connecting to said private network”.

Claim 22

With regard to claim 22, at page 22, the Examiner newly argues that in EP 0 926 611 to Furman “the vendor transmits the transaction identifier associated with the purchased goods, the transaction amount along with the 900 [number] to the customer via the internet. Thus the 900 number is associated with the transaction amount and the transaction details as a whole.”

Be that as it may, there is no determination of “an appropriate chargeable telephone number based upon said purchase amount” as required by claim 22. This distinction is further highlighted in the argument in the Appeal Brief.

Claim 26

With regard to claim 26, the Appeal Brief states that “while Apte uses an Internet connection to find a telephone number, claim 26 recites using a telephone connection to find a URL. In other words, the feature of claim 26 is exactly opposite what is disclosed in Apte.” At page 23 of his Answer, the Examiner argues this is confusing since Apte’s computer has a modem. Thus, “[a]ny connection from Apte computer 10 to anywhere... must therefore go through a telephone connection”.

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In Apte, a modem connects to an Internet gateway to allow an Internet connection. Thus, Apte uses a modem for the "last mile" of the Internet connection. But the connection is nonetheless an Internet connection. And Apte uses the Internet connection to find a telephone number.

Respectfully submitted,



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